

IN THE MATTER OF ARBITRATION BETWEEN

Firefighters, Local 575, Winona, MN.

and

The City of Winona, MN

OPINION AND AWARD

CONTRACT ARBITRATION

BMS Case No. 06 PN 0904

ARBITRATOR

Joseph L. Daly

APPEARANCES

On behalf of Firefighters, Local 575
James R. Forsythe, Esq.
Streater & Murphy
Winona, Minnesota

On behalf of The City of Winona
Brandon M. Fitzsimmons, Esq.
Flaherty & Hood
St. Paul, Minnesota

JURISDICTION

In accordance with the Public Employment Labor Relations Act of Minnesota, and under the jurisdiction of the State of Minnesota, Bureau of Mediation Services, the above Final-Offer, Total-Package, Contract Arbitration was submitted to Joseph L. Daly, on April 13, 2007 at the Winona City Hall. Post-Hearing Briefs were received by the Arbitrator on May 7, 2007. The decision was rendered by the Arbitrator on May 21, 2007.

ISSUES AT IMPASSE & FINAL POSITIONS

The following unresolved issues were certified for Final-Offer, Total Package Arbitration:

1. City- **General Wage Increases:** 2% increases in wages retroactive to 1/1/06; Additional 1% increase in wages retroactive to 7/1/06; 3% increase in wages retroactive to 1/1/07. **Wage Structure:** Maintain same wage differential for technician and specialist classifications; maintain same pay differential for paramedics.
2. Union- **General Wage Increases:** 2% increase in wages retroactive to 1/1/06; Additional 1% increase in wages retroactive to 7/1/06; 3% increases in wages retroactive to 1/1/07. **Wage**

Structure: Increase wage differential for technician from .5% to 1.5%; increase wage differential for specialist from 1.5% to 2.5%; increase pay differential for paramedics by 50% from \$100 to \$150 per month.

AWARD, DECISION AND RATIONALE

Application of the facts to the arbitral standards, internal and external comparisons, the labor market and pay equity considerations support the City's final-offer, total package position. The City's final offer, total package is awarded.

ISSUE #1 – PARAMEDICS

- **Insufficient evidentiary support exists in the record to structurally change the CBA and increase the differential for the Paramedics.**

Arbitrator G.E. Wallin in 2005 in *IAFF, Local 21 and City of St. Paul*, BMS Case # 04-PN-1164, awarded the City of St. Paul's final-offer, total package to the firefighters of St Paul because "the Union's position is found to propose a significant structural change without sufficient evidentiary support.... The Union's evidence does not provide a sufficient rationale for this structural change. Moreover, the Union's evidence does not serve as a *quid pro quo* to justify the proposed change".

Winona established the differential for the paramedic Firefighters in 2001 and has paid it to the Firefighters who are certified paramedics since then. The City established this pay to recognize and pay a higher wage for Firefighters and Captains who are certified paramedics. This certification permits the City an opportunity to provide a higher level of service at the scene.

The Firefighters are paid this differential regardless of whether they respond to any paramedic related calls or use their training. The City also reimburses the Firefighters for 50% of their costs for becoming certified as a paramedic, up to \$3,000.

Further, in all incidents involving medical emergencies in Winona, the fire department and the Winona Ambulance Service are dispatched to the incident. Once the ambulance service arrives, it administers all paramedic and medical services.

Consistent with the prevailing practice, the City's final offer, total package is identical to the wage increases agreed to by all non-police bargaining units and approved for nonunion employees.

The only other bargaining unit in the City with an established differential, the police officers, has not increased their differential.

Winona is one of only three combination fire departments in Greater Minnesota out of 16 which pays any differential for firefighters certified as paramedics. The other two fire departments, Red Wing and Hibbing, are different than Winona as they have separate job classifications for paramedics in their fire bargaining units.

While the City has the ability to pay and the increase requested would cost the City only \$4,200 for the 7 current firefighters currently acting as certified paramedics, the ultimate question is not whether has the ability to pay, but rather "whether it should be required to pay the Union's requested increase, given the other factors in this matter". *LELS, Local 249 & City of Hastings*, BMS Case # 02-PN-1029 (Arb. Jacobs, 2002). The key factor here is that the Union did not support its case with evidence to show why a significant structural change needs to be made at this time.

Finally, if the City's proposal ensures that the City stays closer to compliance with pay equity and its principles.

ISSUE #2 – TECHNICIANS AND SPECIALISTS

- **Insufficient evidentiary support exists in the record to structurally change the CBA and increase the differential for the Technicians and Specialists.**

The city established the technician and specialist differential in 2002 to recognize and pay a higher wage for Firefighters and Captains who have hazardous materials [HazMat] technician and specialist training. Those designated as technicians and specialist are paid this

differential as part of their wages regardless whether they respond to any HazMat related calls or use their training to perform their duties as firefighters.

The City pays for all training and education sessions and related costs for all Firefighters to obtain and maintain their technician and specialist level. The City further pays Firefighters for the hours they attend the training and education sessions during their regularly scheduled shifts. Winona is not designated by the State of Minnesota as a Chemical Assessment Team. The Rochester Fire Department is designated CAT for any hazardous incident requiring assistance from a CAT in Winona. Should the Winona Firefighters receive a CAT designation there would, in all likelihood, be a significant structural change in the responsibilities of the designated firefighters technicians and specialists.

While the contentions of the Union that both Paramedics and hazardous materials training and responsibilities are extensive, the City has already built into the pay structure recognition of these realities. While it is true that the vast majority of the Winona Fire Departments incidents responded to are rescue and medical emergencies, it argued by the City, “the frequency of calls in which Firefighters have administered paramedic services is unclear, but it is more likely than not that they have decreased from 2005 to 2006 and 2007” [City of Winona Post-Hearing Brief at 10] due to the fact that the Winona Ambulance Service may just as likely be first responders. The supporting evidence of the increased work load presented by the Firefighters at the Arbitration hearing is unclear. [See Union Exhibit #3, Incident Reporting Sheets].

While the cost to the City for an increase in the differential for 8 out 11 certified firefighters as hazardous incident specialists is only \$3,864.72 per year, the ability to pay by the City does not alone support the justification for the increased differential. The key question is still “whether it should be required to pay”. [supra, *LELS, Local 249 & City of Hastings*]. A structural change for an increase in the differential is not supported by the evidence offered at the Arbitration hearing.

The above shows that there is insufficient evidentiary support for an increase in the differentials as proposed by the Union. The Union has not shown by the sufficient evidence any trade-offs for such a change to the contract. The differentials already provide a benefit to the Paramedics and Technicians/Specialists not received by the other firefighters. The final offer, total package of the City is awarded.

May 21, 2007

Joseph L. Daly, Arbitrator